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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-114824

SEP 15 1978

The Honorable Richard Nolan
Chairman, Subcommittee on Family Farms,
Rural Development, and Special Studies
Committee on Agriculture
House of Representatives

Dear Mr. Chairman:

In meetings with your office, we agreed to take a quick look at the activities of the Department of Commerce's Office of Foreign Investment in the United States and its Bureau of Economic Analysis concerning collection of data on foreign investment in U.S. farmland. Our observations, summarized below, reflect the results of 2 weeks of discussions with agency officials and a quick review of pertinent legislation and executive orders. We briefed your office on the results of our work and agreed to provide a report summarizing the information we obtained. We have discussed this report informally with officials of the two Commerce agencies.

As required by the International Investment Survey Act of 1976 (Public Law 94-472, 90 Stat. 2759) and two executive orders (No. 11858 dated May 7, 1975, and No. 11961 dated Jan. 19, 1977), the two Commerce agencies are gathering and reporting data on the broad subject of foreign investments. However, we believe that the data sources and procedures which these agencies are using or plan to use in identifying and reporting on foreign investments will not provide the type of data your Subcommittee and other congressional sources are seeking on the extent of foreign investment in U.S. farmland. These matters are discussed below in greater detail.

RESPONSIBILITY FOR MONITORING AND COLLECTING
AND ANALYZING DATA ON FOREIGN INVESTMENT

Under the provisions of the two executive orders and the 1976 act, the Department of Commerce is required to monitor all types of foreign direct investments and to periodically collect, analyze, and report data on such investments.

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CED-78-173
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Direct investment is defined as ownership or control of 10 percent or more of a business enterprise. The Department of the Treasury has been assigned similar responsibility for obtaining information on portfolio (less than 10 percent ownership) foreign investments. Within Commerce, the Office of Foreign Investment in the United States and the Bureau of Economic Analysis are responsible for collecting and analyzing foreign investment data.

OFFICE OF FOREIGN INVESTMENT
IN THE UNITED STATES

The Office of Foreign Investment in the United States was created pursuant to Executive Order No. 11858 which requires the Department of Commerce to

- obtain, consolidate, and analyze information on foreign investment in the United States;
- bring about improvement in procedures for collecting and disseminating information on such foreign investment;
- observe closely foreign investment in the United States;
- prepare reports and analyses of trends and significant developments in appropriate categories of such investment;
- compile data on and prepare evaluations of significant investment transactions; and
- submit to an interagency Committee on Foreign Investment in the United States appropriate reports, analyses, data, and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current. The interagency committee is comprised of representatives from the Departments of State, Commerce, Defense, and the Treasury. The Chairman--the Treasury representative--may invite representatives of other departments and agencies to participate.

In general, Office of Foreign Investment officials interpret their responsibility under the executive order to include monitoring of foreign investments in all sectors

of the economy and undertaking special research projects. The Office's major emphasis has been its monitoring program. Nine analysts have responsibility for monitoring foreign investment transactions in different categories representing broad sectors of the economy. Each analyst monitors two or more sectors. As explained to us, purchases of farmland could fit under different subsectors of a major economy sector called agriculture, forestry, and fishing or under the real estate subsector of a major sector called finance, insurance, and real estate.

The monitoring procedures generally consist of re-searching available public sources of information and then attempting to verify the information. The primary data sources are the Department's field offices, other Federal agencies, State development agencies, press clippings, and various publications. The Office has informal agreements with some Federal agencies, such as the Securities and Exchange Commission, the Federal Reserve Board, and the Federal Trade Commission, under which the agencies are to provide the Office with pertinent information they obtain on foreign investments. These agencies, which have regulatory responsibilities, require certain changes in ownership to be reported to them. For sectors of the economy not under a regulatory agency, such as agriculture or real estate, the analysts generally rely on published newspaper reports furnished by a newspaper clipping service. The Office's analysts do not routinely make direct contact with investors, agents, or brokers to obtain or verify information.

The Office has published reports that contain information on foreign investments in the United States for 1976 and for the first half of 1977. These reports include only four sales of farmland. Office officials said that foreign purchases of farmland are usually not publicized because of investor interest in protecting the privacy of such transactions, particularly in view of potential adverse reaction within the home countries and in the United States, and because there is little commercial advantage in publicizing farmland transactions. Yet, unless transactions are reported in newspapers or other publications or someone contacts the Office with information on a farmland sale, farmland transactions probably will not be identified through the Office's routine procedures.

The Office is now preparing a report on foreign investment for all of 1977, and has initiated a quarterly series of reports, the first of which (for the first quarter of 1978) has recently been published. A report on the first half of

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1978 is scheduled to be issued in a month or so. A Commerce official told us that, combined, the reports indicate a total of 23 investments identified as purchases of U.S. farmland since the beginning of 1976.

In addition to its monitoring function, the Office conducts special research studies such as sector studies, source country profiles, and impact analyses. As discussed in our report entitled "Foreign Ownership of U.S. Farmland-- Much Concern, Little Data," CED-78-132, June 12, 1978 (pp. 57 and 58), the Secretary of Commerce's April 1976 report to the Congress entitled "Foreign Direct Investment in the United States" included research papers, primarily by university specialists, on various aspects of foreign investment in real estate. As of late August 1978, the Office had not undertaken any new research studies on foreign investment in U.S. farmland or real estate.

In our opinion the Office's activities should not be expected to provide good nationwide data on foreign investment in U.S. farmland. There is no active program of contacting investors or developing other sources of data. Office officials said that they are required to cover foreign direct investment in all industries and do not have the staff or funding to undertake a major data collection project concerning farmland investments.

BUREAU OF ECONOMIC ANALYSIS

In carrying out its responsibility for obtaining data on the U.S. balance of payments, the Bureau of Economic Analysis has been collecting information on foreign investments since the 1950s. In 1974, as a result of the Foreign Investment Study Act of 1974 (Public Law 93-479, 88 Stat. 1450), the Bureau made a benchmark survey of direct foreign investment in the United States. The results were included in the Secretary of Commerce's April 1976 report to the Congress on foreign direct investment in the United States. Subsequently, Executive Order No. 11961, which delegated responsibility for various provisions of the International Investment Survey Act of 1976, required Commerce to conduct benchmark surveys every 5 years. Other responsibilities assigned to Commerce included

--conducting a regular data collection program to secure current information related to international investments to use in analyzing the U.S. balance of payments and for other purposes,

--conducting studies and surveys of international investments that have an impact on the United States, and

--publishing the statistical information collected.

The Bureau was assigned the major responsibility for benchmark surveys and data collection. To respond to the 1976 act and executive order, the Bureau plans to make annual surveys of direct foreign investments. At the time of our discussions, a questionnaire (Form BE-15) was being prepared for soliciting information from about 1,500 foreign-owned U.S. firms on an annual basis. Bureau officials explained that these firms are those which report quarterly to the Bureau for balance-of-payments purposes-- out of a universe of approximately 7,000 foreign-owned U.S. firms. The 1,500 firms were selected as meeting the criteria of (1) having assets, sales, or net income in excess of \$5 million or (2) owning at least 200 acres of land in the United States.

Bureau officials feel that the majority of firms that own 200 acres or more will also meet the \$5 million criteria. For this annual survey, however, there may be some limited attempts to identify and survey owners of at least 200 acres of land who do not meet the \$5 million criteria. Bureau officials feel that the 1,500 selected firms represent about 90 percent of the total dollar amount of direct foreign investment.

For reasons discussed below, we believe that information on foreign investment in U.S. farmland obtained from this survey may not shed much light on the true dimension of the nationwide situation.

The universe from which the sample of 1,500 firms was drawn may include the largest known foreign investors in broad sectors of the U.S. economy but may not comprise the bulk of foreign investors in U.S. farmland. In this regard, the Bureau is primarily directing its efforts to previously identified foreign-owned U.S. business firms. Bureau officials recognize that although notification of the requirement to obtain and respond to the questionnaire is to be published in the Federal Register, all foreign investors may not routinely read Federal Register notices and therefore may not be aware of the requirement. Unless foreign investors contact the Bureau and request a questionnaire or unless the Bureau happens to have the

land purchasers' names on file from prior surveys, many foreign investors in U.S. farmland may not be reached. The Bureau does not plan any major effort to identify and contact other investors, such as individuals or foreign governments owning U.S. land.

According to Bureau officials, foreign ownership of U.S. land is not easily identified because of the lack of publicity surrounding these purchases, and coverage in this area will remain a problem. If the Bureau notes a foreign purchase of at least 200 acres of land, it will send a questionnaire to the operating enterprise or the agent managing the investment. The Bureau hopes that if an individual or foreign government is the ultimate owner, the respective agent will eventually complete and return the questionnaire. One Bureau official stated that it is not normal Bureau practice to directly contact individuals living in foreign countries or foreign governments. Accordingly, it appears likely that for the most part, these types of purchasers will be missed in the Bureau's survey.

More important though is the fact that the questionnaire is not designed to yield information which will allow conclusions to be drawn as to the effect of foreign investment on such things as farm price, the price of farmland, and the family farm structure. The draft questionnaire contains only two questions concerning land ownership. One question asks the number of acres of land owned or leased at the end of 1977 and used for agricultural purposes. The second asks the number of acres of all land owned or leased in each State. Answers to these questions will only tell the Bureau the total amount of agricultural land owned or leased by the respondents and the total amount of all types of land owned or leased by the respondents in each State. It is unlikely that answers to these questions will permit valid, meaningful projections as to the extent, trends, or patterns of foreign ownership of farmland.

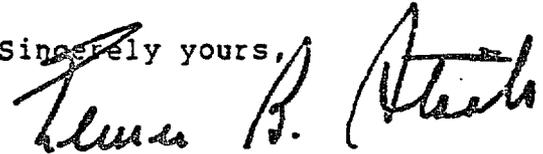
The Bureau also is designing a new questionnaire (Form BE-13) which is to be sent to U.S. enterprises at the time a foreign investor establishes or acquires a 10-percent or greater equity interest in the enterprise. The questionnaire is to contain questions on the chain of ownership, size and nature of investment, industry sector, land ownership, selected financial data, and sources of investment funds. Questionnaire recipients are to be firms--including new firms acquired or established by firms presently reporting to the Bureau--identified from the Office of Foreign

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Investment's newspaper clipping service, leads in trade magazines and journals, and other internal Department sources. It appears to us that because these data sources are essentially the same sources as those from which the Office of Foreign Investment and the Bureau already collect or plan to collect data, the basic problem of identifying and reaching foreign investors in farmland will still exist. As of August 1978, the questionnaire was in the planning stage.

In accordance with our existing procedures, we plan to make the report available to the two Commerce agencies and to other parties who request it 30 days from the date of the report or when you publicly release its contents, whichever occurs earlier.

Sincerely yours,



Comptroller General
of the United States